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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/943,461	08/30/2001	Mick A. Nylander	G00310/US	9414

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GKN AUTOMOTIVE, INC.
3300 University Drive
Auburn Hills, MI 48326

EXAMINER

RODRIGUEZ, PAMELA

ART UNIT	PAPER NUMBER
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3683

DATE MAILED: 07/07/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/943,461

Applicant(s)

NYLANDER ET AL.

Examiner

Pam Rodriguez

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 April 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. The Amendment filed April 28, 2003 has been received and considered. And the new oath filed concurrently therewith has also been received and is approved by the examiner.

Claim Rejections - 35 USC § 112

2. Claims 2 and 3 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In lines 1 of Claim 2 and Claim 3, the terms "the affixing member" are indefinite. It is unclear which affixing member from the plurality claimed in Claim 1 that applicant is referring to here.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-6 and 9-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Domer.

Regarding Claim 1, Domer discloses a dynamic damper (see Figure 6) having all the features of the instant invention including: a mass member assembly 1c/1c

including a plurality of discrete mass members 1c, 1c, each mass member having an inner surface (see Figure 6 and Figure 1 where the inner surfaces of members 1c and 1c would extend in-between elements 5), an outer surface (see Figure 6 and the outer surfaces of members 1c and 1c which would face elements 6 shown in Figure 1), and first and second affixing members 3 and 4 for affixing one of the mass members to the other (see Figure 6 and column 3 lines 13-28), and wherein the mass member assembly 1c/1c is affixable to a rotary shaft (see column 2 lines 43-51, wherein the torsion bar to which the members are attached is readable as a rotary shaft).

Regarding Claim 2, see tab 3 in Figure 6.

Regarding Claim 3, see receptacle 4 in Figure 6.

Regarding Claim 4, Domer discloses a dynamic damper (see Figure 1) having a plurality of mass members 1a and 1b, each mass member having an inner surface extending from the mass member (see Figure 1 where the inner surfaces of members 1a and 1b comprise ribs 5, which extend from the inner surfaces of these mass members as discussed in column 2 lines 56-59), an outer surface (see Figure 1 and the outer surfaces of mass members 1a and 1b which face elements 6), wherein the mass member assembly is affixable to a rotary shaft (see column 2 lines 43-51, wherein the torsion bar to which the members are attached is readable as a rotary shaft), a plurality of elongated connecting members 3 and 4 (as shown in Figure 1) each extending radially inwardly from the inner surface of each mass member 1a and 1b toward the rotary shaft (see Figures 3 and 4) thereby defining a plurality of spaced apart attachment surfaces 5, wherein each of the spaced apart attachment surfaces 5

secures the damper in the closed position to the shaft, wherein the mass member assembly is spaced apart from the rotary shaft and being supported by the connecting members 3 and 4 directly contacting the shaft to allow the mass member assembly to vibrate by resonance (see column 2 lines 43-55 and Figures 1, 3, and 4), and the connecting members 3 and 4 being subjected substantially to compressive deformation between the mass member assembly and the rotary shaft.

Regarding Claim 5, note that the torsion bar would inherently have a central axis of rotation and that each of the spaced apart attachment surfaces 5 would align in a direction parallel thereto.

Regarding Claim 6, see Figures 3 and 4.

Regarding Claim 9, see Figures 3 and 4.

Regarding Claim 10, see Figures 1, 3, and 4.

Regarding Claim 11, see Figure 1.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein

were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Domer.

Regarding Claims 7 and 8, Domer discloses most all the features of the instant invention as applied in paragraph 4 above, except for the connecting members being formed of an elastic material, in particular rubber.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have constructed the connecting members of Domer to be formed of an elastic rubber material as a matter of design preference, dependent upon the desired type of engagement between the two mass members. Constructing the connecting members to be rubber would allow for some flexibility between the connecting members to enable them to have some "give" when affixed to one another. This elasticity would help prevent shearing of the connecting members upon excessive force applied to the rotary shaft.

Response to Arguments

8. Applicant's arguments filed April 28, 2003 have been fully considered but they are not persuasive.

Regarding applicant's arguments with respect to Claim 1 and the Domer reference not disclosing applicant's new limitation of each mass member having first and second affixing means, the examiner respectfully disagrees.

As now outlined in the new Claim 1 rejection above, necessitated by applicant's amendment, Figure 6 of the Domer reference discloses two mass members 1c and each of those mass members has first and second affixing means 3 and 4. Therefore, this new claim limitation is now met.

Regarding applicant's arguments with respect to Claim 4 and the Domer reference not disclosing that the plurality of mass members each have an inner surface extending from the mass member, again, the examiner respectfully disagrees.

Inherently the mass members 1a and 1b shown in Figure 1 of the reference have inner surfaces and these surfaces, at the very least, are extensions from the central portion of the mass members. But as outlined in the rejection of the claim above, ribs 5 are integral extensions from each of the mass members 1a and 1b and extend from the inner surfaces thereof as highlighted in column 2 lines 56-59 of the Domer reference. Therefore, this new claim limitation is also still met by the reference.

It is for these reasons that the rejections have been maintained.

Conclusion

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pam Rodriguez whose telephone number is 703-308-3657. The examiner can normally be reached on Mondays 6 am -4 pm and Tuesdays 6 am -12 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Lavinder can be reached on 703-308-3421. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-7687 for regular communications and 703-305-7687 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

A handwritten signature in cursive script that reads "Pam Rodriguez".

Pam Rodriguez
Primary Examiner
Art Unit 3683

7/1/03

pr
July 1, 2003